

ARTICLE 19. MOBILE SOURCE RULES

RULE 1. EMPLOYEE COMMUTE OPTIONS

326 IAC 19-1-1 ----- Employee commute options: applicability of rule

This article applies to all employers in Lake and Porter Counties which meet the following requirements:

- (1) Employ one hundred (100) or more employees at a single worksite.
- (2) Have thirty-three (33) or more employees reporting to work at a worksite between 6 a.m. and 10 a.m. on any single day, Monday through Friday.

[As added at: 17 IR 334.]

326 IAC 19-1-2 ----- Employee commute options: definitions

(a) The definitions in this section apply throughout this article.

(b) “Applicable employee population” means all employees who report to work weekdays between 6 a.m. and 10 a.m., including all employees who are telecommuting or who have a scheduled weekday off as part of a compressed work week. For the purpose of calculating APO, the applicable employee population shall exclude the following:

- (1) Employees who are off because of jury duty, work action, vacation, or sick leave.
- (2) Employees not working at their primary worksite.
- (3) Contract employees if they are included in another employer’s commute option plan or plan update.

(c) “Average passenger occupancy” or “APO” means the number derived by dividing the applicable employee population at a worksite by the number of vehicles driven by employees commuting from home to the worksite. APO may be calculated using either weekly or biweekly averaging periods. National holidays may be excluded from the average period. The sum of the applicable employee population, each weekday, in the selected averaging period is divided by the total number of vehicles driven by the employees to the worksite during the same averaging period. The term “vehicle”, as used in this subsection, does not refer to any specific vehicle. Examples of the proper method of calculating APO will be provided to all applicable employers at the time of initial notification by the department.

(d) “Average vehicle occupancy” or “AVO” means the number derived by dividing the number of employees who report to worksites or other related activity centers between 6 a.m. and 10 a.m., inclusive, Monday through Friday, by the number of vehicles in which the employees report over a five (5) day period. Commuters who work for employers with less than one hundred (100) employees shall be included. In the survey used to determine the AVO, the time period shall exclude any holidays and occur during a time without holidays bordering the weekend on either side of the selected week. Using an approach consistent with procedures developed for monitoring vehicle occupancy in California (Caltrans District 7, March 1991), the AVO for Lake and Porter Counties has been determined to be 1.17.

(e) “Board” means the air pollution control board.

(f) “Department” means the Indiana department of environmental management.

(g) “Employee” means any person employed by any:

- (1) firm;
- (2) person;
- (3) business;
- (4) educational institution;
- (5) nonprofit agency or corporation;
- (6) government department or agency; or
- (7) other entity.

“Employee” refers to any full-time or part-time person working ten (10) or more days per thirty (30) day period, permanent or temporary, contract or employed, excluding volun-

teers, who reports to work or is assigned primarily to a worksite on a regular schedule over a thirty (30) day period.

(h) “Employer” means any:

- (1) person;
- (2) firm;
- (3) business;
- (4) educational institution;
- (5) government department or agency;
- (6) nonprofit agency or corporation; or
- (7) other entity;

which employs one hundred (100) or more persons at a single worksite. Only such worksites are subject to the employee commute options requirement; smaller worksites of the same employer are not subject to the employee commute options requirement. Several subsidiaries or units that occupy the same worksite and report to one (1) common governing board or governing entity are considered to be one (1) employer.

(i) “Peak travel period” means the time between 6 a.m. and 10 a.m., Monday through Friday.

(j) “Target average passenger occupancy” or “target APO” means the APO that an employer must achieve to show compliance with this article.

(k) “Trained employee transportation coordinator” means a person:

- (1) who has completed a training program in transportation management approved by the department; or
- (2) who can demonstrate experience equivalent to that covered in an approved transportation management program.

(l) “Vehicle” means a highway vehicle powered by an internal combustion engine with fewer than nine (9) seating positions for adults. Vehicles powered by compressed natural gas (CNG), liquified natural gas (LNG), or electricity shall not be considered a vehicle in this article.

(m) “Verifiable estimate of average passenger occupancy” means an acceptable method of estimating APO. In order to provide full documentation, the recommended method is weekly or biweekly employee trip record surveys of all employees reporting to work weekdays between 6 a.m. and 10 a.m. This includes employees who are absent due to jury duty, vacation or sick leave, and those not working at their primary worksite, but excluding employees who are absent because of work action, and contract employees if they are included in another employer’s commute option plan or plan update. A suggested survey format will be provided to all applicable employers at the time of initial notification by the department.

(n) “Work action” means any action taken by the employer or an employee which results in an employee not reporting to work. Examples include any of the following:

- (1) A strike.
- (2) A temporary employee layoff.
- (3) A temporary plant shutdown.

(o) “Worksite” means the following:

- (1) A building or group of buildings located within the same ozone nonattainment area which are in actual physical contact or separated only by a private or public roadway or other private or public right-of-way.
- (2) A building or group of buildings which are owned or operated by the same employer or by employers under common control as described under subsection (h).

[As added at: 17 IR 334.]

326 IAC 19-1-3 ----- Employee commute options: compliance schedule

(a) The department shall begin requesting compliance plans one (1) year after the effective date of this article. Requests will be made using certified mail.

(b) Upon receiving written notice from the department by certified mail, employers meeting the applicability requirements of section 1 of this rule shall submit to the department within one hundred twenty (120) days of receipt of the notice, two (2) copies of an employee commute options plan which meets the requirements of this article. If the employer feels that it does not meet the applicability requirements of section 1 of this rule, it shall notify the department within thirty (30) days after receipt of the written notice from the department. It will be the responsibility of the employer to demonstrate to the satisfaction of the department that it does not meet the applicability requirements of section 1 of this rule. If the employer does not agree with the final decision of the department, the employer may appeal the decision to the air pollution control board under IC 4-21.5. The board's final action is subject to judicial review under IC 4-21.5.

(c) Employers with multiple worksites shall submit a separate plan for each affected worksite upon receiving a single notice. An employer with multiple worksites may submit the common parts of separate plans in a single, comprehensive plan. Such a submission shall only be acceptable upon prior written approval from the department and shall be considered as a separate plan when determining fees under section 6 of this rule.

(d) In the event that the employer reasonably needs more time to prepare a plan, additional time may be sought from the department. A request for an extension must be made, in writing, at least thirty (30) days prior to the plan submittal deadline and shall include an explanation of the need for additional time and an anticipated plan submittal date. Additional time may be granted by the department for good cause, but such an extension shall only be effective upon written notification from the department specifying a new plan submittal deadline. The department shall notify the employer whether or not the extension has been granted within ten (10) calendar days of receipt of the written request for extension.

(e) After the employer submits the employee commute options plan, the department shall approve, conditionally approve, or disapprove the plan. If the department fails to respond to the plan, in writing, within sixty (60) days, the plan shall be deemed approved. Conditional approval may be granted for a plan with minor deficiencies. Notice of a disapproved plan shall be made by certified mail, and the notice shall contain the reasons for disapproval. If the employer believes that the disapproved plan meets the requirements of this article, the employer may appeal the decision to the air pollution control board under IC 4-21.5. The board's final agency action is subject to judicial review under IC 4-21.5. A disapproved plan must be revised by the employer and resubmitted to the department within sixty (60) days of receipt of the notice of disapproval or within sixty (60) days of the board's decision to uphold the disapproval by the department.

(f) The employee commute options plan shall be implemented within one (1) year of the plan's approval by the department.

[As added at: 17 IR 336.]

326 IAC 19-1-4 ----- Employee commute options: general requirements

(a) Any employer meeting the applicability requirements of this article shall submit an employee commute options plan. This plan, at a minimum, shall increase the APO per vehicle in commuting trips between home and the workplace during peak travel periods to a level not less than twenty-five percent (25%) above the areawide AVO for all such trips.

(b) Each employee commute options plan shall contain the following information:

- (1) A cover letter signed by the highest ranking official with direct management responsibility for the worksite indicating commitment to implement the plan.
- (2) Designation of a trained employee transportation coordinator responsible for implementing the plan including a specific staffing commitment. It is recommended that the trained employee transportation coordinator be located on-site and that a

minimum of one (1) hour per week for every fifty (50) employees be spent on administering the employee commute options program.

- (3) A brief description of the employer and the worksite including the following:
 - (A) The general type of business and any unique aspects such as seasonal fluctuation in the number of employees or the employer's business cycles.
 - (B) An approximation of the percent of employees by type, for example, clerical, professional, part-time, and contract.
 - (C) A site map showing the building and, where applicable, location and number of preferential parking spaces for ridesharing vehicles and placement of bicycle lockers or racks.
 - (D) Public transit services serving the worksite including the specific locations of nearby transit stops.
- (4) A verifiable estimate of the existing APO at the worksite, prior to implementation of the employee commute options plan.
- (5) A brief description of the factors influencing the existing APO including any existing employer-provided commute option measures.
- (6) A list of specific commute option measures the employer shall provide which can reasonably be expected to be achieved within one (1) year after the plan submittal deadline and maintained continuously thereafter as the target APO. The list shall include a detailed description of each measure specifying the following:
 - (A) When they will be provided.
 - (B) How they will be presented to employees.
 - (C) The estimated cost.
- (7) A method of monitoring the progress of the implementation of the plan and the individual strategies included within the plan.

[As added at: 17 IR 336.]

326 IAC 19-1-5 ----- Employee commute options: plan update

(a) The employee commute options plan must be updated by each employer by submitting two (2) copies of a plan update to the department one (1) year after the initial plan submittal deadline and annually thereafter. The department shall notify the employer of the plan update deadline one hundred twenty (120) days prior to the deadline. A request for an extension must be made at least thirty (30) days prior to the plan update deadline. The department shall notify the employer, in writing, whether or not the extension has been granted within ten (10) calendar days after receipt of the written request for extension.

(b) The department may postpone a plan update at any time and for any reason including the need to change the annual plan update schedule to coincide with seasonal fluctuations in the number of employees or the employer's business cycle. A postponement made by the department shall be in writing and shall specify a new plan update deadline.

(c) The plan update shall focus on commute option measures provided by the employer. The plan update shall contain the following:

- (1) A verifiable estimate of the APO attained.
- (2) A description of each commute option measure provided specifying when each was offered and how each was presented to employees.
- (3) An evaluation of the plan's effectiveness in attaining the prescribed APO.
- (4) A list of additional commute option measures which, when implemented, will allow a company to meet its target APO. These measures are to be achieved within one (1) year of the plan update deadline. The list shall include a detailed description of each additional measure specifying the following:
 - (A) When they will be provided.
 - (B) How they will be marketed to employees.
 - (C) The estimated cost.

- (5) An explanation of why the additional measures are likely to achieve and maintain the target APO.
- (6) Any changes in the strategies used to achieve the target APO or any changes to the method of monitoring progress in implementing the strategies.
- (7) A new cover letter signed by the highest ranking official with direct management responsibility for the worksite, indicating the employer's commitment to implement the plan update.
- (8) If applicable, as a result of personnel changes, designation of a new trained transportation coordinator responsible for implementing the plan update.
- (9) If applicable, as a result of company relocation, merger, or acquisition, a new brief description of the employer and the worksite including the items listed in section 4(b)(3) of this rule.

(d) After the employer submits the plan update, the department shall approve, conditionally approve, or disapprove the plan update. If the department fails to respond to the plan update, in writing, within sixty (60) days, it shall be deemed approved. If the employer believes that a disapproved plan meets the requirements of this article, the employer may appeal the disapproval to the board under IC 4-21.5. The board's final action is subject to judicial review under IC 4-21.5. A disapproved plan must be revised by the employer and resubmitted to the department within sixty (60) days of receipt of the notice of disapproval or within sixty (60) days of the board's decision to uphold the disapproval by the department.

[As added at: 17 IR 337.]

326 IAC 19-1-7 ----- Employee commute options: plan revision

(a) An approved plan or approved plan update may be revised by submitting a plan revision or a plan update to the department. The revision shall not be effective until approved by the department.

(b) An employer submitting a plan revision or plan update revision shall not be required to pay a fee.

[As added at: 17 IR 338.]

326 IAC 19-1-8 ----- Employee commute options: violations

(a) Failure to comply with any provision of this article constitutes a violation of this article. The following are violations of this article and are punishable under the authority of IC 13-7-13-1(a):

- (1) Failure to submit an approvable plan or to submit an approvable plan update.
- (2) Failure to implement an approved plan or to implement an approved plan update.
- (3) Failure to provide any measure in an approved plan or to provide any measure in an approved plan update.
- (4) Falsification of information on a plan or information on a plan update.
- (5) Falsification of information on employment.
- (6) Failure to respond to an order to comply.

(b) If the employer complies with all provisions of the approved employee commute options plan or plan update, but fails to meet the target APO, such failure is not a violation of this rule.

[As added at: 17 IR 338.]

326 IAC 19-1-9 ----- Employee commute options: banking and trading of average passenger occupancy credits

(a) Within one (1) year of the effective date of this article, the department shall study and make a recommendation to the board regarding the feasibility of an APO credit banking or trading program for incorporation into this article.

(b) An APO credit banking or trading program will be considered as a means of encouraging excess vehicle trip reductions by individual employers or as a means of assisting

employers who fail to meet the required number of trip reductions to meet the target APO through application of trip reduction credit.

[As added at: 17 IR 339.]

RULE 2. TRANSPORTATION CONFORMITY TO FEDERAL AND STATE IMPLEMENTATION PLANS

326 IAC 19-2-1 ----- Transportation conformity to plans: applicability; incorporation by reference of federal standards

(a) This rule, unless specifically exempted in the applicability section of 40 CFR 93, Subpart A*, applies to transportation plans, programs, and projects in nonattainment or maintenance areas for transportation-related criteria pollutants that are developed, funded, or approved by the United States Department of Transportation (DOT) and by metropolitan planning organizations (MPOs) or other recipients of funds under Title 23 United States Code (U.S.C.) or the Federal Transit Laws.

(b) This rule applies to regionally significant projects regardless of funding source, located in nonattainment or maintenance areas for transportation-related criteria pollutants for which the area is designated nonattainment or has a maintenance plan.

(c) The air pollution control board incorporates by reference the following:

- (1) 40 CFR 51, Subpart T, "Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved under Title 23 U.S.C. or the Federal Transit Laws"* , as amended at 62 FR 43780 (August 15, 1997).
- (2) 40 CFR 93, Subpart A, "Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved under Title 23 U.S.C. or the Federal Transit Laws"* , as amended at 62 FR 43780 (August 15, 1997), with the exception of Section 93.102(d).

*Copies of the Code of Federal Regulations (CFR) and Federal Register (FR) referenced may be obtained from the Government Printing Office, Washington, D.C. 20402 and are also available for copying at the Indiana Department of Environmental Management, Office of Air Management, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204.

[As amended at: 22 IR 751.]

RULE 3. CLEAN FUEL FLEET VEHICLES

326 IAC 19-3-1 ----- Clean fuel fleet vehicles: applicability

(a) This rule applies to all owners and operators of vehicle fleets located or operated in Lake or Porter County that meet the following requirements:

- (1) The fleet consists of ten (10) or more motor vehicles that can be centrally fueled one hundred percent (100%) of the time and are owned or operated by a single person.
- (2) At least ten (10) vehicles in the fleet are operated in Lake or Porter County any time during the year, even if the fleet vehicles are garaged outside of those counties.

(b) The following vehicle types are exempt from this rule and shall not be counted toward the ten (10) vehicle criterion:

- (1) Motor vehicles held for lease or rental to the general public.
- (2) Motor vehicles held for sale by motor vehicle dealers, including demonstration vehicles.
- (3) Motor vehicles used for motor vehicle manufacturer product evaluations or tests.
- (4) Law enforcement and other emergency vehicles.

- (5) Nonroad vehicles, including farm and construction vehicles.
- (6) Vehicles that are more than twenty-six thousand (26,000) pounds gross vehicle weight rating.
- (7) Vehicles that the U.S. Secretary of Defense has determined should be exempt from the program for national security reasons.

[As added at: 19 IR 1042.]

326 IAC 19-3-2 ----- Clean fuel fleet vehicles: definitions

The following definitions apply throughout this rule unless expressly stated:

- (1) “Adjusted loaded vehicle weight” or “ALVW” means the numerical average of the vehicle curb weight and the GVWR.
- (2) “Can be centrally fueled” means vehicles that are centrally fueled or capable of being centrally fueled.
- (3) “Capable of being centrally fueled” means a fleet, or that part of a fleet, consisting of vehicles that could be refueled one hundred percent (100%) of the time at a location that is owned, operated, or controlled by the covered fleet operator or is under contract with the covered fleet operator. The fact that a portion of the vehicles is not capable of being centrally fueled does not exempt an entire fleet from the program. The fact that a vehicle is not centrally fueled does not mean that it could not be centrally fueled. Determination of whether a vehicle is capable of being centrally fueled shall be made in accordance with the guidance as amended at 58 FR 64679, December 9, 1993, and 59 FR 50042, September 30, 1994*.
- (4) “Centrally fueled” means a fleet, or that portion of a fleet, consisting of vehicles that are fueled one hundred percent (100%) of the time at a location that is owned, operated, or controlled by the covered fleet operator or is under contract with the covered fleet operator. Any vehicle that is, under normal operations, garaged at a personal residence at night but that is, in fact, centrally fueled one hundred percent (100%) of the time shall be considered to be centrally fueled for purposes of this rule. The fact that a portion of the vehicles in a fleet is not centrally fueled does not exempt an entire fleet from the program. The fact that a vehicle is not centrally fueled does not mean it could not be centrally fueled in accordance with the definition of capable of being centrally fueled.
- (5) “Chicago severe nonattainment area” means the Chicago-GaryLake County Area, Severe-17 ozone nonattainment area as defined in 56 FR 56694, November 6, 1991*.
- (6) “Clean alternative fuel” means:
 - (A) any fuel, including:
 - (i) methanol;
 - (ii) ethanol; or
 - (iii) other alcohols;including any mixture thereof containing eighty-five percent (85%) or more by volume of such alcohol with gasoline or other fuels;
 - (B) reformulated gasoline;
 - (C) diesel;
 - (D) natural gas;
 - (E) liquified petroleum gas; and
 - (F) hydrogen or other power source, including electricity;used in a clean fuel vehicle that complies with the standards and requirements applicable to such vehicle under this rule when using such fuel or power source. In the case of any flexible fuel vehicle or dual fuel vehicle, that means only a fuel with respect to which such vehicle was certified as a clean fuel vehicle.

- (7) “Clean fuel vehicle” means a vehicle certified as an LEV, a ULEV, or a ZEV when it is operating on the clean fuel for which the vehicle was certified as a clean fuel vehicle, meeting the emission standards applicable to such a vehicle under 40 CFR 88, Subpart A, 88.104-94 and 88.105-94*.
- (8) “Combination heavy-duty vehicle” means a motor vehicle with a GVWR greater than eight thousand five hundred (8,500) pounds that is comprised of a truck-tractor and one (1) or more pieces of trailered equipment.
- (9) “Control” means the following:
 - (A) When used to join all entities under common management, means:
 - (i) a third person or firm has equity ownership of at least fifty-one percent (51%) in each of two (2) or more firms;
 - (ii) two (2) or more firms have common corporate officers, in whole or in substantial part, who are responsible for the day-to-day operation of the companies; or
 - (iii) one (1) firm leases, operates, supervises, or owns at least fifty-one percent (51%) of the equipment or facilities used by another person or firm, or has equity ownership of at least fifty-one percent (51%) of another firm.
 - (B) When used to refer to the management of vehicles, a person has the authority to decide who can operate a particular vehicle and the purposes for which the vehicle can be operated.
 - (C) When used to refer to the management of people, a person has the authority to direct the activities of another person or employee in a precise situation such as at the work place.
- (10) “Converted clean fuel vehicle” means a vehicle that has been adapted to operate on clean fuel using a conversion configuration that has been certified by U.S. EPA as meeting clean fuel emission standards and converted in accordance with the requirements for clean fuel conversions under 40 CFR 88, Subpart C, 88.306-94*.
- (11) “Covered fleet” means ten (10) or more motor vehicles that are owned or operated by a single person. In determining the number of vehicles owned or operated by a single person for purposes of this subdivision, all motor vehicles owned or operated, leased, or otherwise controlled by such person, by any person who controls such person, or by any person under common control with such person shall be treated as owned by such person. The term shall not include any vehicle that is exempt from this rule in accordance with section 1(b) of this rule.
- (12) “Covered fleet operator” means a person who operates a fleet of at least ten (10) covered fleet vehicles that is operated in Lake or Porter County. This includes covered fleet vehicles garaged outside of Lake or Porter County.
- (13) “Covered fleet vehicle” means a motor vehicle that is:
 - (A) in a vehicle class for which standards are applicable under this rule; and
 - (B) in a covered fleet that can be centrally fueled.
- (14) “Dealer demonstration vehicle” means any vehicle that is:
 - (A) operated by a motor vehicle dealer solely for the purpose of promoting motor vehicle sales, either on the sales lot or through other marketing or sales promotions; or
 - (B) used for allowing potential purchasers to drive the vehicle for prepurchase or prelease evaluation.
- (15) “Department” means the Indiana department of environmental management.
- (16) “Dispenser” means a device through which a motor fuel is transferred from storage at a refueling source to a motor vehicle.
- (17) “Dual fuel vehicle” means a vehicle capable of operating on either of two (2) fuels. A dual fuel vehicle qualifies as a clean fuel vehicle when certified in accor-

- dance with 40 CFR 88, Subpart A, 88.104-94*, as meeting the standards applicable to dual fuel vehicles on either fuel and is eligible to meet purchase requirements and earn credits when operating on the fuel on which it was certified as a dual fuel clean fuel vehicle while operating in Lake or Porter County.
- (18) “Emergency vehicle” means any vehicle that is legally authorized by a governmental authority to exceed the speed limit to transport people or equipment to and from situations in which speed is required to save lives or property, for example, a rescue vehicle, a fire truck, or an ambulance.
- (19) “Flexible fuel vehicle” means a vehicle capable of operating on either or any combination of two (2) fuels. A flexible fuel vehicle qualifies as a clean fuel vehicle when certified in accordance with 40 CFR 88, Subpart A, 88.104-94*, as meeting the standards applicable to flexible fuel vehicles on either fuel and is eligible to meet purchase requirements and earn credits when operating on the fuel on which it was certified as a flexible fuel clean fuel vehicle while operating in Lake or Porter County.
- (20) “Fuel provider” means either of the following:
- (A) A person who supplies clean alternative fuel in Lake or Porter County.
 - (B) A person who refines, imports, distributes, sells, or trades gasoline to Indiana for use in motor vehicles in Lake or Porter County.
- (21) “g/mi” means grams per mile.
- (22) “Gasoline” means any fuel that is sold for use in motor vehicles or motor vehicle engines and is commonly or commercially known or sold as gasoline.
- (23) “GVWR” means gross vehicle weight rating which is the total vehicle weight, including load, as designated by the vehicle manufacturer.
- (24) “HDV” means a heavy-duty vehicle weighing more than eight thousand five hundred (8,500) pounds and less than twenty-six thousand (26,000) pounds GVWR.
- (25) “ILEV” means an inherently low emissions vehicle that is a light-duty vehicle or light-duty truck conforming to the applicable ILEV standard as defined in 40CFR 88, Subpart C, 88.311-93*. No dual fuel vehicles may be considered ILEVs unless they are certified to the applicable standards on all fuel types for which they are designed to operate.
- (26) “Law enforcement vehicle” means any vehicle that is primarily operated by:
- (A) a civilian or military police officer or sheriff;
 - (B) personnel of the Federal Bureau of Investigation, the Drug Enforcement Administration, or other agencies of the federal government; or
 - (C) state highway patrols, municipal law enforcement, or other similar law enforcement agencies;
- and which is used for the purpose of law enforcement activities, including, but not limited to, chase, apprehension, surveillance, or patrol of people engaged in or potentially engaged in unlawful activities. For federal law enforcement vehicles, the definition contained in 58 FR 64688, December 9, 1993*, applies.
- (27) “LDT” means light-duty truck, a vehicle weighing less than eight thousand five hundred (8,500) pounds GVWR.
- (28) “LDV” means light-duty vehicle, a vehicle weighing less than eight thousand five hundred (8,500) pounds GVWR.
- (29) “LEV” means a low emission vehicle that meets the applicable LEV standards as defined in 40 CFR 88, Subpart A, 88.104-94*.
- (30) “Loaded vehicle weight” or “LVW” means the vehicle curb weight plus three hundred (300) pounds.
- (31) “Location” means any building, structure, facility, or installation that:
- (A) is owned or operated by a person or is under the control of a person; or

- (B) is located on one (1) or more contiguous properties and contains or could contain a fueling pump or pumps for the use of the vehicles owned or controlled by that person.
- (32) “Model year” or “MY”, as it applies to the clean fuel vehicle fleet purchase requirements, means September 1 through August 31. For example, the 1998 model year begins September 1, 1997, and ends August 31, 1998.
- (33) “Motor vehicle dealer” means any person who is engaged in the sale or distribution of new motor vehicles or new motor vehicle engines to the ultimate purchaser.
- (34) “Motor vehicle manufacturer” means any person engaged in the manufacturing or assembling of new motor vehicles, new motor vehicle engines, new nonroad vehicles, or new nonroad engines, or importing such vehicles or engines for resale, or who acts for and is under control of any such person in connection with the distribution of new motor vehicles, new motor vehicle engines, new nonroad vehicles, or new nonroad engines, but does not include a motor vehicle dealer as defined in subdivision (33).
- (35) “Motor vehicles held for lease or rental to the general public” means a vehicle that is owned or controlled primarily for the purpose of short term rental or extended term leasing (with or without maintenance), without a driver, under a contract.
- (36) “NMOG” means nonmethane organic gases.
- (37) “New covered fleet vehicle” means a vehicle that has not been previously controlled by the current purchaser, regardless of the model year, except any of the following:
- (A) Vehicles that were manufactured before the 1999 model year for such vehicle’s weight class.
 - (B) Vehicles transferred due to the purchase of a company not previously controlled by the purchaser or due to a consolidation of business operations.
 - (C) Vehicles transferred as part of an employee transfer.
 - (D) Vehicles transferred for seasonal requirements, that is, for less than one hundred twenty (120) days.
- This definition of new covered fleet vehicle is distinct from the definition of new vehicle as it applies to manufacturer certification, including the certification of vehicles to clean fuel standards.
- (38) “New motor vehicle” means a motor vehicle the equitable or legal title to which has never been transferred to an ultimate purchaser.
- (39) “Noncovered fleet” means a fleet that operates ten (10) or more motor vehicles in Lake or Porter County that are not centrally fueled or capable of central fueling or are exempt under section 1(b) of this rule.
- (40) “Owned or operated, leased, or otherwise controlled by” means either of the following:
- (A) Such person holds the beneficial title to such vehicle.
 - (B) Such person uses the vehicle for transportation purposes under a contract or similar arrangement, the term of the contract or similar arrangement is for a period of one hundred twenty (120) days or more, and such person has control over the vehicle as defined in subdivision (8) [*sic.*, subdivision (9)].
- (41) “Partially covered fleet” means a fleet in a covered area that contains both covered and noncovered fleet vehicles.
- (42) “Person” means an individual, corporation, partnership, association, state, municipality, political subdivision of a state, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.
- (43) “ULEV” means an ultra low emissions vehicle that meets the applicable ULEV standards as defined in 40 CFR 88, Subpart A, 88.104-94*.

- (44) "Under normal circumstances garaged at personal residence" means a vehicle that, when it is not in use, is normally parked at the personal residence of the individual who usually operates it, rather than at a central refueling, maintenance, or business location. Such a vehicle is not considered to be capable of being centrally fueled and is exempt from this rule unless it is, in fact, centrally fueled.
- (45) "Vehicle curb weight" means the actual weight or the manufacturer's estimated weight.
- (46) "Vehicle used for motor vehicle manufacturer product evaluations and tests" means a vehicle that is:
- (A) owned and operated by a:
 - (i) motor vehicle manufacturer; or
 - (ii) motor vehicle component manufacturer; or
 - (B) owned or held by:
 - (i) a university research department;
 - (ii) an independent testing laboratory; or
 - (iii) other such evaluation facility;
 solely for the purpose of evaluating the performance of such vehicle for engineering, research and development, or quality control reasons.
- (47) "ZEV" means a zero (0) emissions vehicle that meets the applicable ZEV standards as defined in 40 CFR 88, Subpart A, 88.104-94*.

*Copies of the Code of Federal Regulations (CFR) or Federal Register (FR) referenced in this rule may be obtained from the Government Printing Office, Washington, D.C. 20402 and are available for copying at the Indiana Department of Environmental Management, Office of Air Management, Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor, Indianapolis, Indiana 46204-2220.

[As amended at: 21 IR 3774.]

326 IAC 19-3-3 ----- Clean fuel fleet vehicles: general purchase requirements

(a) Beginning in model year 1999 and in each year thereafter, a percentage of new covered fleet vehicles purchased by each fleet owner or operator subject to this rule shall be clean fuel vehicles. The new vehicle purchase percentages for each vehicle type shall be:

Vehicle Type	MY1999	MY2000	MY2001 and thereafter
LDV	30%	50%	70%
LDT	30%	50%	70%
HDV	50%	50%	50%

(b) The requirements of subsection (a) may be met through the conversion of existing or new gasoline or diesel powered vehicles to clean fuel vehicles in accordance with the requirements for clean fuel vehicle conversions contained in 40 CFR 88, Subpart C, 88.306-94*.

(c) Purchase requirements may be met by purchasing vehicles that meet or exceed the LEV standard or through the purchase of credits from another fleet in the Chicago severe nonattainment area so that the total equals the minimum requirement.

(d) The fleet owner or operator shall decide which vehicles and fuels to use to comply with the requirements of this rule.

(e) A fleet owner or operator who purchases vehicles certified as LEVs, ULEVs, and ZEVs beyond the percentage required in subsection (a) shall receive credits as described in section 4(e) of this rule.

(f) Vehicles purchased to satisfy the requirements of this section shall be operated on the clean alternative fuel on which they were certified to meet the clean fuel vehicle emissions standards when operating in Lake or Porter County.

*Copies of the Federal Register (FR) referenced in this rule may be obtained from the

Government Printing Office, Washington, D.C. 20402 and are available for copying at the Indiana Department of Environmental Management, Office of Air Management, Indiana Government Center-North, 100 North Senate Avenue, 10th Floor, Indianapolis, Indiana 46204-2220.

[As amended at: 21 IR 3774.]

326 IAC 19-3-4 ----- Clean fuel fleet vehicles: banking and trading of credits

(a) This section establishes the requirements of a credit program to enable fleet owners to meet the requirements of this rule both by purchasing clean fuel vehicles directly and by trading or banking credits for vehicle purchases. General provisions for the credit program are as follows:

- (1) Credits shall be generated only if a fleet operator obtains clean fuel vehicles in excess of the required number or type of vehicle required in section 3(a) of this rule or earlier than required by that section.
 - (2) Credits may be used to meet the purchase requirements of section 3 of this rule.
 - (3) Converted clean fuel vehicles shall earn credits in the same manner as other purchased clean fuel vehicles.
 - (4) All clean fuel vehicles used to generate credits must:
 - (A) meet the applicable emission standards;
 - (B) be operated in Lake or Porter County; and
 - (C) meet all other standards under this rule.
 - (5) A partially covered or covered fleet operator, who purchases or leases clean fuel fleet vehicles only to generate credits, shall be subject to all the requirements of this rule.
 - (6) A noncovered fleet owner who purchases or leases a clean fuel vehicle only to generate clean vehicle credit shall be subject to all the requirements of this rule except the purchase requirements of section 3 of this rule.
 - (7) Fleet operators who purchase or lease flexible fuel or dual fuel vehicles for the purpose of generating credit may receive credits based on the emissions of the cleanest fuel. Fleet operators who have received credits for flexible fuel or dual fuel vehicles shall operate those vehicles only on the fuel that each vehicle is certified on as an LEV, a ULEV, or a ZEV while operated in the Chicago severe nonattainment area.
 - (8) Credit may only be sold to or used in the Chicago severe nonattainment area by operators whose fleets operate in that area.
 - (9) Credit trading is allowed between all subclasses of LDVs and LDTs, but trading is not allowed between light-duty and heavy-duty classes.
 - (10) Credit trading is allowed between heavy-duty subclasses only if the credits to be traded are for the same subclass or a lighter heavy-duty subclass.
 - (11) Clean fuel vehicles used to meet purchase requirements or to generate purchase credits shall not be allowed to be sold or traded to satisfy additional purchase requirements or generate additional purchase credits for any other fleet operator.
 - (12) Converted clean fuel vehicles used to meet purchase requirements or to generate credits shall be removed from the fleet if the conversion hardware is reused to convert another vehicle for the purpose of satisfying the purchase requirements or to generate purchase credits.
 - (13) Only fleet operators who operate in the Chicago severe nonattainment area can generate credits.
- (b) Conditions for credit generating in the credit program are as follows:
- (1) A fleet owner or operator shall receive credits from the department for any of the following qualifying purchases:
 - (A) Purchase of clean fuel vehicles before the required acquisition date.

- (B) Purchase of clean fuel vehicles before the approval of this rule if the purchase meets all other requirements of this rule and the vehicle can be shown to have operated in the Chicago severe nonattainment area exclusively on the clean alternate fuel on which it was certified as a clean fuel vehicle in the case of dual fuel or flexible fueled vehicles.
- (C) Purchase of clean fuel vehicles in excess of the required percent of new covered vehicles.
- (D) Purchase of clean fuel vehicles that meet more stringent standards than required in this rule.
- (E) Purchase of clean fuel vehicles in an exempt vehicle category by the owner or operator of a covered or partially covered fleet.
- (F) Purchase of clean fuel vehicles by a noncovered fleet operator that operates within the Chicago severe nonattainment area.

Purchase of exempt vehicles that are combination HDVs greater than twenty-six thousand (26,000) pounds GVWR may not generate credits if all or a portion of its fuel taxes are paid, as evidenced by fuel tax stickers on the combination HDV, to a state that is not part of the Chicago severe nonattainment area.

- (2) Credit values shall be calculated to two (2) decimal places.
- (3) Credits generated by the purchase of a qualifying clean fuel LDV or LDT shall be designated at the time of issuance as light-duty clean fuel fleet vehicle credits.
- (4) Credits generated by the purchase of a qualifying clean fuel fleet HDV shall be designated at the time of issuance as heavy-duty clean fuel vehicle credits.
- (5) Credits generated by the purchase of a light heavy-duty or a medium heavy-duty qualifying clean fuel fleet vehicle shall be designated at the time of issuance as light heavy-duty or medium heavy-duty credits, respectively.

(c) The exact amount of credit for each clean fuel vehicle that satisfies one (1) of the conditions listed in subsection (a) shall be governed by the values listed in the tables in subsection (e).

(d) All credits generated in accordance with this section may be freely traded, sold, or banked for later use, without discount or depreciation, subject to the following:

- (1) A covered fleet operator shall inform the department in the annual report required in section 5 of this rule of the number of credits sold, traded, or purchased during the previous year and the number of credits proposed to be used by the operator to satisfy its purchase requirements for that year.
- (2) Credits earned within the boundaries of the Chicago severe nonattainment area may be traded or sold only within the boundaries of that area.
- (3) Credits purchased by owners or operators within the Chicago severe nonattainment area must have been generated by owners or operators within the Chicago severe nonattainment area.
- (4) Credits may be used to satisfy purchase requirements in the following ways:
 - (A) Credits generated by the purchase of LDVs and LDTs may be used to demonstrate compliance with purchase requirements applicable to LDVs and LDTs.
 - (B) Credits generated by the purchase of vehicles of more than eight thousand five hundred (8,500) pounds GVWR may not be used to demonstrate compliance with requirements for vehicles weighing eight thousand five hundred (8,500) pounds or less.
 - (C) Credits generated by the purchase of vehicles of eight thousand five hundred (8,500) pounds GVWR or less may not be used to demonstrate compliance with requirements for vehicles of more than eight thousand five hundred (8,500) pounds GVWR.
 - (D) Credits generated by the purchase of an HDV of a particular weight subclass may be used to demonstrate compliance with required heavy-duty vehicles

purchased for the same or lighter weight subclasses. Such credits may not be used to demonstrate compliance with HDV purchase requirements for vehicles of heavier weight subclasses than the weight subclass of the vehicle that generated the credits.

- (E) Credits generated by the purchase of a new HDV weighing in excess of twenty-six thousand (26,000) pounds may be used to demonstrate compliance for HDVs of any subclass.

(e) Credits generated by purchase of clean fuel vehicles in excess of the requirements of this rule are shown in the following tables:

- (1) Credits generated by purchase of clean vehicles are shown as follows:

**CREDIT GENERATION: PURCHASING MORE CLEAN FUEL VEHICLES
THAN REQUIRED BY THE MANDATE**

	LDV, LDT -6,000 GVWR -3,750 LVW	LDT -6,000 GVWR, >3,750 LVW -5,750 LVW	LDT >6,000 GVWR, -3,750 ALVW	LDT >6,000 GVWR, >3,750 ALVW -5,750 ALVW	LDT >6,000 GVWR, >5,750 ALVW
LEV	1.00	1.26	0.71	0.91	1.11
ULEV	1.20	1.54	1.00	1.29	1.47
ZEV	1.43	1.83	1.43	1.83	2.23

- (2) Credits generated by purchase of a ULEV or a ZEV are shown as follows:

CREDIT GENERATION: PURCHASING A ULEV OR ZEV TO MEET THE MANDATE

	LDV, LDT -6,000 GVWR -3,750 LVW	LDT -6,000 GVWR, >3,750 LVW -5,750 LVW	LDT >6,000 GVWR, -3,750 ALVW	LDT >6,000 GVWR, >3,750 ALVW -5,750 ALVW	LDT >6,000 GVWR, >5,750 ALVW
LEV	0.00	0.00	0.00	0.00	0.00
ULEV	0.20	0.29	0.29	0.34	0.45
ZEV	0.43	0.57	0.71	0.91	1.11

- (3) Credits needed to satisfy the purchase requirements of section 3 of this rule are shown in the following table:

CREDIT NEEDED IN LIEU OF PURCHASING AN LEV TO MEET THE MANDATE

	LDV, LDT -6,000 GVWR -3,750 LVW	LDT -6,000 GVWR, >3,750 LVW -5,750 LVW	LDT >6,000 GVWR, -3,750 ALVW	LDT >6,000 GVWR, >3,750 ALVW -5,750 ALVW	LDT >6,000 GVWR, >5,750 ALVW
LEV	1.00	1.26	0.71	0.91	1.11

- (4) Credits generated by purchase of clean fuel vehicles in excess of the requirements of this rule for HDVs are shown in the following tables:

**CREDIT GENERATION: PURCHASING MORE CLEAN FUEL VEHICLES THAN RE-
QUIRED BY THE MANDATE FOR HEAVY-DUTY VEHICLES**

	Light HDV 8501-19500 GVWR	Medium HDV 19501-26000 GVWR	High HDV >26000 GVWR
LEV	1.00	1.00	1.00
ULEV	1.87	1.87	1.87
ZEV	3.53	3.53	3.53

CREDIT GENERATION: PURCHASING A ULEV OR ZEV TO MEET THE MANDATE FOR
HEAVY-DUTY VEHICLES

	Light HDV	Medium HDV	High HDV
LEV	0.00	0.00	0.00
ULEV	0.87	0.87	0.87
ZEV	2.53	2.53	2.53

- (5) Credit needed to satisfy the purchase requirements of section 3 of this rule for HDVs are shown in the following table:

CREDIT NEEDED IN LIEU OF PURCHASING AN LEV TO MEET THE MANDATE FOR
HEAVY-DUTY VEHICLES

	Light HDV	Medium HDV
LEV	1.00	1.00

[As added at: 19 IR 1046.]

326 IAC 19-3-5 ----- Clean fuel fleet vehicles: registration and record keeping requirements

Registration and record keeping requirements are as follows:

- (1) Fleet operators who control and operate ten (10) or more vehicles in Lake or Porter County shall register their fleet with the department by July 1, 1996, regardless of where the fleet is located.
- (2) Covered fleet operators who desire to obtain early purchase credits before the 1999 purchase requirements shall register their fleet at least thirty (30) days before the purchase of clean fuel vehicles.
- (3) The owner or operator of a fleet which meets the applicability requirements after the effective date of this rule, because of an increase in fleet size or because of newly obtained central fueling capability, shall register with the department within sixty (60) days after attaining covered fleet status.
- (4) On or before November 1 of each year beginning in 1999, each covered fleet operator shall submit an annual report to the department. The report shall include the following:
 - (A) Name, address, and telephone number of fleet owner or operator.
 - (B) Signature of responsible official as defined in 326 IAC 2-7-1(34).
 - (C) The total number of vehicles in the fleet, including both covered and exempt vehicles.
 - (D) Identification of the covered vehicles to include flexible fuel and dual fuel vehicles shall provide the following information:
 - (i) Vehicle identification number.
 - (ii) Type.
 - (iii) Whether flexible fuel or dual fuel.
 - (iv) Yearly mileage per vehicle.
 - (v) Miles operated in covered area.
 - (vi) Yearly fuel usage and type per vehicle.
 - (E) Identification of covered dedicated vehicles shall provide the following information:
 - (i) Vehicle identification number.
 - (ii) Type.
 - (F) Identification of exempt vehicles by type of vehicle that is exempt with documentation of exempt status.

- (G) The report shall include the total number of vehicles purchased with a description of the type of vehicle, model year, and the number of vehicles purchased or converted that are certified as clean fuel vehicles for the previous and current model years.
- (H) Clean fuel certification for all clean fuel vehicles purchased or converted as follows:
 - (i) The number of credits that have been accumulated.
 - (ii) The credit market activities from the previous year.
- (I) Number and type of vehicles that are garaged at a personal residence.
- (5) Determination of covered fleet status shall be submitted to the department by covered and noncovered fleets by November 1, 1999, and every odd-numbered year thereafter to determine if the fleet is covered. This report shall include the number of vehicles that are centrally fueled, or capable of being centrally fueled, and supporting documentation showing how the numbers were determined in accordance with 58 FR 64679, December 9, 1993, and 59 FR 50042, September 30, 1994*.
- (6) The following records shall be maintained for compliance audit purposes:
 - (A) Information required in the annual report.
 - (B) Routine maintenance records of all vehicles.
 - (C) Fuel economy information, and fuel usage for dual fuel or flexible fuel vehicles.
 - (D) Copies of converted vehicle certification for all converted clean fuel vehicles.
 - (E) Clean fuel vehicles shall at all times be accompanied by certification that they are clean fuel vehicles.
- (7) The department may request other information as necessary to determine compliance with this rule.

*Copies of the Federal Register (FR) referenced in this rule may be obtained from the Government Printing Office, Washington, D.C. 20402 and are available for copying at the Indiana Department of Environmental Management, Office of Air Management, Indiana Government Center North, 100 North Senate Avenue, Tenth Floor, Indianapolis, Indiana 46204-2220.

[As added at: 21 IR 3774.]

326 IAC 19-3-6 ----- Clean fuel fleet vehicles: exemptions from transportation control measures

(a) Clean fuel fleet vehicles shall receive exemptions from the following transportation control measures (TCMs):

- (1) Time-of-day restrictions.
- (2) Day-of-the-week or day-of-the-month restrictions.
- (3) Other similar time-based restrictions.

(b) Fleet vehicles that are certified to be ILEVs shall be exempted from the TCMs listed in subsection (a) and from the following TCMs:

- (1) Mechanisms designed to reduce air pollution from motor vehicles by limiting their use in certain areas.
- (2) Air quality related parking restrictions.
- (3) High occupancy vehicle lane restrictions.

(c) Covered fleet operators shall be allowed to receive purchase credits and TCM exemptions for the same vehicle.

[As added at: 19 IR 1049.]

326 IAC 19-3-7 ----- Clean fuel fleet vehicles: violations

Failure to comply with any provision of this rule, including, but not limited to, the following, constitutes a violation of this rule:

- (1) Failure to meet purchase requirements.
- (2) Operation of a clean fuel vehicle in Lake or Porter County on a fuel other than that on which it was certified as a clean fuel vehicle or was given purchase credits.
- (3) Failure to submit required data in a timely, complete, and accurate manner.
- (4) Counterfeiting or trafficking in counterfeit purchase credit documents.

[As added at: 19 IR 1049.]

